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BEFORE THE ARIZONA CORPORATION COMMISSION

DOUG LITTLE  
CHAIRMAN

BOB STUMP  
COMMISSIONER

BOB BURNS  
COMMISSIONER

TOM FORESE  
COMMISSIONER

ANDY TOBIN  
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF  
TUCSON ELECTRIC POWER COMPANY FOR  
APPROVAL OF ITS 2016 RENEWABLE  
ENERGY STANDARD IMPLEMENTATION  
PLAN

DOCKET NO. E-01933A-15-0239

IN THE MATTER OF THE APPLICATION OF  
TUCSON ELECTRIC POWER COMPANY FOR  
THE ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES  
DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF  
THE PROPERTIES OF TUCSON ELECTRIC  
POWER COMPANY DEVOTED TO ITS  
OPERATIONS THROUGHOUT THE STATE OF  
ARIZONA AND FOR RELATED APPROVALS

DOCKET NO. E-01933A-15-0322

**NOTICE OF FILING  
SURREBUTTAL TESTIMONY OF  
MARK E. GARRETT**

The Energy Freedom Coalition of America ("EFCA"), by and through its undersigned  
counsel, hereby submits the Surrebuttal Testimony of Mark. E. Garrett.

**RESPECTFULLY SUBMITTED** this 25<sup>th</sup> day of August, 2016.

Arizona Corporation Commission

**DOCKETED**

AUG 25 2016

/s/ Court S. Rich

Court S. Rich  
Rose Law Group pc  
Attorney for EFCA

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1 Original and 13 copies filed on  
2 this 15<sup>th</sup> day of August, 2016 with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 W. Washington Street  
6 Phoenix, Arizona 85007

7 *I hereby certify that I have this day served a copy of the foregoing document on all parties of  
8 record in this proceeding by regular or electronic mail to:*

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**SURREBUTTAL TESTIMONY**

**OF**

**MARK E. GARRETT**

**COST OF SERVICE/  
RATE DESIGN ISSUES**

**ON BEHALF  
OF**

**ENERGY FREEDOM COALITION OF AMERICA ("EFCA")**

**August 25, 2016**

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**I. WITNESS IDENTIFICATION AND PURPOSE OF TESTIMONY**

1   **Q:   Please state your name and business address.**

2   A:   My name is Mark E. Garrett. My business address is 50 Penn Place, Suite 410, 1900 NW  
3       Expressway, Oklahoma City, Oklahoma 73118.

4  
5   **Q:   Are you the same Mark E. Garrett that presented Direct Testimony in this docket on**  
6       **June 24, 2016?**

7   A:   Yes.

8  
9   **Q:   On whose behalf are you appearing in these proceedings?**

10  A:   I am appearing on behalf of Energy Freedom Coalition of America (“EFCA”).

11  
12 **Q:   What is EFCA’s interest in this proceeding?**

13  A:   EFCA’s primary interest in this proceeding is to maintain and encourage consumer choice  
14       and fair rates, particularly as it applies to the Company’s solar customers and those  
15       customers who hope to power their homes and businesses with solar in the future.

16  
17 **Q:   What is the purpose of your surrebuttal testimony?**

18  A:   The majority of my direct testimony addressed Tucson Electric Power Company’s (“TEP”  
19       or the “Company”) proposed new three-part rates for NEM customers. The Commission  
20       issued an Order on August 23, 2016, determining that the solar distributed generation  
21       issues will be addressed separately in Phase 2 of this docket. The purpose of this

1 surrebuttal testimony is to address the Company's proposed demand ratchets for the LGS  
2 class and the proposed new MGS class. The Company's proposed demand ratchets will  
3 affect many customers with no prior experience with demand rates or demand ratchets.  
4 The Company does not have sufficient load and class characteristic history for the newly-  
5 formed MGS class to accurately indicate whether a demand ratchet is needed or how it  
6 should be set. The Commission in the recent UNSE case articulated specific concerns  
7 regarding demand ratchets. Given this directive from the Commission, I believe TEP's  
8 proposed demand ratchets are particularly ill-advised for the new MGS class, and should  
9 be rejected at this time. In addition, the ratchets for the LGS class should be eliminated.

## **II. SURREBUTTAL TO CRAIG A. JONES**

10 **Q: Did the Company disagree with your positions on demand ratchets?**

11 A: Yes. On page 64, lines 11-16, Mr. Jones complains that my position on demand ratchets  
12 is a "step backwards" and that my position shows a "lack of concern" for cost causation.  
13 He contends that my recommendation to remove or reduce demand ratchets will result in  
14 additional costs being shifted to the highest load factor customers and thus, "flies in the  
15 face of sound rate making principles."  
16

17 **Q: Do you agree that demand ratchets reflect sound ratemaking principles?**

18 A: No. In my direct testimony I explained that TEP's proposed demand ratchets for LGS and  
19 MGS classes do not accurately address cost causation, and that demand ratchets generally  
20 do not encourage an efficient use of the system. I further testified that demand ratchets  
21 are inconsistent with the stated goals of economic development and job creation, and that

1 they discourage investment in valuable energy storage, which has the significant benefit  
2 of reducing demand and strain on the grid, while lowering overall system cost. In the  
3 Commission's recent order in the UNSE case, the Commission has raised many of the  
4 same concerns I have addressed in my direct testimony about the problems associated with  
5 demand ratchets.

6  
7 **Q: What does the Commission say about demand ratchets?**

8 A: In the most recent UNSE case, Docket No. E-04204A-15-0142, the Commission's Order  
9 makes it clear that demand ratchets are strongly disfavored. The Commission specifically  
10 directs that in its next rate case, UNSE is to evaluate other methods, "that do not involve  
11 ratchets." The Commission recognizes that demand ratchets are problematic. These  
12 concerns are expressed in the following excerpt:

13 Demand ratchets may be characterized as a substitute for rates that  
14 actually reflect cost causation. A rate structure that includes  
15 seasonal, multi-tiered demand, and seasonal TOU energy rates,  
16 would more accurately match cost causation with revenue recovery  
17 compared to the use of ratchets ... **Idemand ratchets are**  
18 **problematic and can create inequitable results. In addition,**  
19 **there seem to be disparities between cost causation and cost**  
20 **recovery in rate classes** other than LPS and MGS, but no party  
21 intervened to identify any problems. However, without an adequate  
22 alternative in this record, we decline to eliminate the existing  
23 demand ratchet structure, at this time.

24 In UNSE's next rate case, **we direct the Company to seriously**  
25 **consider designing rates that match cost causation,** as measured  
26 by its CCOSS, with revenue recovery, **and to evaluate methods of**  
27 **revenue recovery that do not involve ratchets.** Seasonal, and on-  
28 and off-peak demand charges are examples of alternatives to  
29 ratchets. It may be appropriate for the LGS and MGS classes, for  
30 example, to have a demand portion of their rate comprised of a  
31 standard demand charge plus an incremental charge, if the

1 maximum demand occurs in a period other than off-peak, or the  
2 partial peak period in summer. In the winter, there may not be an  
3 incremental peak demand charge. Such rates would recognize the  
4 differences in costs among generation sources, and between seasons  
5 throughout the year. **Such rates could send proper cost signals,**  
6 **unlike ratchets.**

7 In addition, the Company should evaluate consistency in other rate  
8 components . . . the various designs should be based on cost  
9 causation, and should be consistent, fair and equitable, **and not**  
10 **merely self-serving.** (Emphasis added).<sup>1</sup>

11 **Q: What conclusions do you draw from this language in the UNSE Order?**

12 A: The excerpts above make it clear that the Commission takes a dim view of demand  
13 ratchets. The Commission recognized that demand ratchets can create inequitable results  
14 and disparities between cost causation and cost recovery. As a result, the Commission  
15 directed UNSE to develop a new rate design methodology in its next rate case. The  
16 Commission also cautioned against any rate designs that are “merely self-serving.” In my  
17 view, the harsh demand ratchets TEP has proposed in this case are not adequately cost  
18 based, and represent self-serving rate design on the part of TEP.<sup>2</sup> In light of the  
19 Commission’s strong language directing a move away from demand ratchets, it seems  
20 TEP’s request to impose similar demand ratchets on the newly-established MGS customer  
21 class is particularly ill-advised.

22  
23 **Q: What are your concerns regarding the new MGS class?**

---

<sup>1</sup> See ALJ Report at page 86, line 10 through page 87, line 8.

<sup>2</sup> In my experience, demand ratchets are not necessary, and even when they are used, they can be much less onerous than the 75% ratchets proposed by TEP. For example, Oklahoma Gas & Electric Co. uses a 25% demand ratchet for its large commercial and industrial classes.

1 A: The Company has proposed to establish a new MGS class which will move approximately  
2 3,995 of the Small General Service ("SGS") customers to a rate class that includes a  
3 demand charge and 75% demand ratchets.<sup>3</sup> The Company admits that this new MGS  
4 class will cause the proposed 75% demand ratchet to be applied to a group of customers  
5 that has not historically been billed based on a demand charge.<sup>4</sup> In fact, TEP anticipates  
6 that only 93 of approximately 4,000 customers will have had experience with demand  
7 ratchets.<sup>5</sup> Demand ratchets create numerous problems even when they are imposed on  
8 customers who are familiar with demand charges. Here, TEP does not have necessary  
9 historical data available for this new customer class, and cannot clearly show that the 75%  
10 demand ratchet will result in fair, just and reasonable rates for this class. TEP is unable to  
11 state with precision what the future billing determinants will be for this class, and has  
12 admitted that they have not yet evaluated the customer impacts from movement to this  
13 rate.<sup>6</sup> While the Company is unsure how this group of customers will be affected by the  
14 demand ratchet, through a cursory review, it has already identified, "a set of highly  
15 seasonal customers which would be affected by the move to a ratcheted demand rate."<sup>7</sup>  
16 Furthermore, TEP has yet to provide advanced notice to any of the customers to be  
17 migrated to the MGS rate, notifying them that they will be subject to a new rate with a  
18 demand ratchet.<sup>8</sup> For these reasons, the Commission should reject the Company's  
19 proposal.

---

<sup>3</sup> Jones Direct at page 37, line 20.

<sup>4</sup> See Jones Direct at page 34, lines 13-16.

<sup>5</sup> Jones Direct page 37, line 20.

<sup>6</sup> See TEP Response to STF-20.08 (d).

<sup>7</sup> Id.

<sup>8</sup> Id. at STF-20.08(a-b).

**Q: Why are you concerned that the Company is unclear about the impact its new rate design will have on the MGS Class?**

A: Mr. Jones makes a series of statements about how the Company has attempted to ensure its proposed new rates are fair for the customers of the MGS class. Mr. Jones acknowledges that the Company anticipates the need to mitigate these effects. Specifically, he states:

It was essential that we had a complete understanding of the billing determinants as we modified the provisions within the tariffs. For the Demand Charge in the new MGS class, we evaluated how the billing determinant changes will impact customers' bills and the Company's revenues as the 75% ratchet is applied to a group of customers that has not historically been billed based on a Demand Charge.<sup>9</sup>

\*\*\*

Extra consideration must be made to inform and work with these customers. Numerous methods of communications have been considered, depending on the level of impact and, where warranted, methods of offering temporary billing considerations have been evaluated to allow a customer some time to acclimate to the new rate design. The Company is requesting that as efforts are made to mitigate the bill impact for these customers, a temporary provision be discussed and arranged that will allow the Company to maintain revenue neutrality for the class.<sup>10</sup>

\*\*\*

Since these customers are moving from a non-demand based rate to a demand based rate, low load factor customers, seasonal customers, cyclical use customers, etc. **may see unusually high bill impacts**. An attempt will be made to mitigate any disproportionately large impacts. Prior to the hearing the Company would like to discuss options with the other parties to arrive at a way to create a revenue neutral way to allow this mitigation of impact to the 50 or so customers the Company believes will be most affected. (Emphasis added).<sup>11</sup>

I am concerned that although Mr. Jones indicates “an attempt will be made” to mitigate

<sup>9</sup> Jones Direct, page 34, lines 12-16.

<sup>10</sup> Jones Direct, page 35, lines 2-8.

<sup>11</sup> Jones Direct, page 35, at FN 9.

1 disproportionately high impacts, he does not elaborate on what those impacts may be, or  
2 what the Company plans to do to mitigate those impacts. He instead suggests that prior to  
3 the hearing the parties “discuss options.” Furthermore, it is concerning that TEP has not  
4 yet notified the nearly 4,000 customers unfamiliar with ratchets that they will be subject  
5 to a demand ratchet as soon as the new rates are implemented.  
6

7 **Q: At page 67, lines 4-9, Mr. Jones claims you have mischaracterized the facts regarding**  
8 **the effects demand ratchets have on customer consumption behavior. Does the fuel**  
9 **and purchased power component sufficiently mitigate the conservation disincentives**  
10 **caused by a demand ratchet?**

11 A: No. It is interesting that Mr. Jones refers to my testimony as a “mischaracterization of the  
12 facts,” yet fails to show any specific inaccuracy in either my facts or analysis. Instead, he  
13 merely shifts the focus to the “fuel and purchased power” component of customers’ bills—  
14 costs which exist regardless of whether a demand ratchet is implemented. The pass-  
15 through of fuel and purchased power costs on customers’ bills is a nonissue in this  
16 analysis—it is not a valid justification for implementing a demand charge or demand  
17 ratchets. In my direct testimony I address the relevant issue before this Commission –  
18 whether the implementation of a demand ratchet would be an incentive or a disincentive  
19 for customer conservation. This analysis does not turn on whether fuel and purchased  
20 power costs, or any other unrelated bill components, may independently impact a  
21 customer’s consumption behavior. The fuel and purchased power costs will not change  
22 one way or the other as a result of the Company’s proposed demand ratchet. Thus, the

1 fact that fuel costs make up 26% of the average customer's bill makes no meaningful  
2 difference in the analysis, but merely serves as a distraction from the flaws in the  
3 Company's proposal.

### III. CONCLUSION

4 **Q: What do you conclude from your review of the Company's rebuttal testimony?**

5 A: In my review of the rebuttal testimony I found nothing that changed the opinions and  
6 recommendations set forth in my direct testimony. Based upon the Commission's recent  
7 UNSE order, I recommend that TEP not be allowed to impose demand ratchets in the new  
8 MGS class, and that the LGS ratchets be eliminated. Since the Commission has effectively  
9 directed UNSE to eliminate demand ratchets in its next rate case, I see no reason in this  
10 case for TEP to expand the use of demand ratchets, particularly to a new customer class  
11 for which the Company has no historical data to support its proposed ratchets.

12  
13 **Q: Does this conclude your surrebuttal testimony?**

14 A: Yes, it does. I will file surrebuttal testimony related to NEM and solar rate design issues  
15 in the subsequent Phase 2 proceedings.